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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/460,324	12/10/1999	KENNETH J. KASHA	411044.9002	2350
26735	7590	10/22/2002		
QUARLES & BRADY LLP FIRSTAR PLAZA, ONE SOUTH PINCKNEY STREET P.O BOX 2113 SUITE 600 MADISON, WI 53701-2113			EXAMINER	
			GRUNBERG, ANNE MARIE	
ART UNIT	PAPER NUMBER			
1661				
DATE MAILED: 10/22/2002				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No. 09/460,324	Applicant(s) Kenneth J. Kasha et al.
Examiner Anne Marie Grunberg	Art Unit 1661



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1)  Responsive to communication(s) filed on Jul 26, 2002
- 2a)  This action is FINAL.      2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.
- 4)  Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above, claim(s) 23, 24, and 28-30 is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_\_ is/are allowed.
- 6)  Claim(s) 1-22, 25-27, 31, and 32 is/are rejected.
- 7)  Claim(s) \_\_\_\_\_ is/are objected to.
- 8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Disposition of Claims

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_\_ is/are a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12)  The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some\* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

- 14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a)  The translation of the foreign language provisional application has been received.
- 15)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
- 4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_

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### **DETAILED ACTION**

Claims 1-30 and new claims 31-32 are pending. Applicant needs to delete claims 23-24 and 28-30 as they are drawn to non-elected subject matter.

The reference from Hunter, submitted with paper #3 on 6 March 2000 is missing pages 39-44 of Chapter 2. The reference has not been considered at this time as a result. However, if Applicant sends in the missing pages with the next correspondence, the Examiner will consider the reference at that time.

There appears to be a spelling/grammatical error in claim 18 as there is no period at the end of the claim.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

#### ***Claim Rejections***

1. Claims 1-12 and newly rejected claims 18-21, as well as new claims 31-32 remain rejected under 35 U.S.C. 103(a), for the reasons stated in the last office action.

**Applicant argues** that there is no suggestion within Genovesi et al. that arabinogalactan may be added to the induction medium for the production of microspores. **Applicant also argues** that Kreuger et al do not disclose or suggest pretreatment of microspores to obtain a uninucleate stage prior to microspore isolation and embryo induction and additionally the effect of arabinogalactan is only demonstrated on carrot or brassica protoplasts.

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These arguments have been carefully considered but are not considered persuasive for the following reasons:

The suggestion of adding arabinogalactan is found in Kreuger et al. the dramatic stimulation in embryogenic growth with the use of arabinogalactan as reported by Kreuger et al. Kreuger et al state in column 2, lines 30-32, that the method (of using arabinogalactan in tissue culture processes) is “generally applicable, including for anther and microspore cultures.” Genovesi et al do disclose pretreatment of microspores to obtain a uninucleate stage prior to microspore isolation and embryo induction at column 4, lines 20-24; column 19, lines 14-24, for example. That the effect of arabinogalactan is only demonstrated on carrot or brassica protoplasts is irrelevant because the genus of carrot and brassica makes the kingdom of plants obvious.

Claim 22 remains rejected under 35 U.S.C. 103(a), for the reasons stated in the last rejections of the last office action (rejection of Kreuger et al in view of Genovesi et al or Hu et al).

**Applicant argues** that there is no suggestion within Genovesi et al or Hu et al that arabinogalactan may be added to the induction medium for the production of microspores. **Applicant also argues** that Kreuger et al do not disclose or suggest pretreatment of microspores to obtain a uninucleate stage prior to microspore isolation and embryo induction and additionally the effect of arabinogalactan is only demonstrated on carrot or brassica protoplasts.

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No claim is allowed.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anne Marie Grunberg whose telephone number is (703) 305-0805. The examiner can normally be reached Monday through Friday from 8:00 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bruce Campell, can be reached on (703) 308-4205. The fax phone number for this group is (703) 308-4242.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

A handwritten signature in black ink, appearing to read "Bruce Campbell".

BRUCE R. CAMPBELL, PH.D  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600

AMG